

89-19



1  
2 UNITED STATES  
3 ENVIRONMENTAL PROTECTION AGENCY  
4 REGION 9

5 In The Matter Of: )

6 REDELL INDUSTRIES, INC. )  
7 DR. PAUL PRATTER )  
8 MR. JOSHUA PRATTER )  
9 THORNE ENVIRONMENTAL, INC. )  
10 IT INCORPORATED - CERRITOS )

11 Respondents. )

ORDER REQUESTING  
INFORMATION, DOCUMENTS  
AND SAMPLES

12 PROCEEDING UNDER SECTION 104(e), )  
13 42 U.S.C. § 9604(e) OF THE COMPRE- )  
14 HENSIVE ENVIRONMENTAL RESPONSE, )  
15 COMPENSATION AND LIABILITY ACT, )  
16 AS AMENDED (CERCLA), 42 U.S.C. )  
17 § 9601 ET SEQ, AND PURSUANT TO THE )  
18 PROVISION OF SECTION 3007(a), )  
19 42 U.S.C. § 6927(a) OF THE RESOURCE )  
20 CONSERVATION AND RECOVERY ACT, AS )  
21 AMENDED (RCRA), 42 U.S.C. )  
22 § 6901 ET SEQ. )

Docket No. 89-19

23 I. JURISDICTION

24 This is an Administrative Order issued to Redell Industries,  
25 Inc., Dr. Paul Pratter, Mr. Joshua Pratter, Thorne Environmental,  
26 Inc., and IT Incorporated - Cerritos ("Respondents") pursuant to  
27 Section 104(e), 42 U.S.C. § 9604(e) of the Comprehensive Environ-  
28 mental Response, Compensation and Liability Act, as amended  
(CERCLA), 42 U.S.C. § 9601 et seq, and to the information gather-  
ing provisions of Section 3007(a), 42 U.S.C. § 6927(a) of the  
Resource Conservation and Recovery Act, as amended (RCRA), 42  
U.S.C. § 6921 et seq, by authority delegated by the President to  
the Administrator of the United States Environmental Protection



1 Agency ("EPA") and delegated by the Administrator to the under-  
2 signed.

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## II. FINDINGS OF FACT

5 1. Respondent Thorne Environmental, Inc. was retained on or  
6 about May 16, 1989, by Respondents Redell Industries, Inc.,  
7 and/or Dr. Paul Pratter, and/or Mr. Joshua Pratter, Respondents  
8 to EPA Administrative Order 89-10 [Exhibit "A"], to conduct cer-  
9 tain response activities pursuant to Order 89-10.

10 2. Complainant is the Director of the Hazardous Waste  
11 Management Division, Region 9, United States Environmental  
12 Protection Agency ("EPA").

13 3. EPA has been conducting an investigation of the Respon-  
14 dents named in EPA's Order 89-10, in their connection with the  
15 Pratter Drum Sites; Jennings Transfer & Storage Site, and Meadows  
16 Field Site ("Sites"). The Sites are Superfund Removal sites lo-  
17 cated in Bakersfield, Kern County, California. EPA is conducting  
18 its investigation of, and response actions at, the Sites because  
19 EPA has determined that there have been releases or threatened  
20 releases of hazardous substances from the Sites. This investiga-  
21 tion is being conducted by EPA pursuant to its authority under  
22 Section 104 of the Comprehensive Environmental Response, Compen-  
23 sation and Liability Act, as amended (CERCLA), 42 U.S.C. § 9604  
24 and Section 3007 of the Resource Conservation and Recovery Act,  
25 as amended (RCRA), 42 U.S.C. § 6927(a), which specifically  
26 provides EPA with authority to collect such information, as is  
27 more fully set forth below.

28



1           4. Pursuant to EPA's investigation of the Sites and  
2 relevant to EPA's investigation of the releases and threatened  
3 releases therefrom, EPA has additionally been conducting an in-  
4 vestigation of certain persons who have or may have generated,  
5 stored, treated, transported, disposed of, or otherwise handled  
6 hazardous substances, including such hazardous substances which  
7 have or may have been transported to or from the Sites, "or alter-  
8 natively, who have or may have information relevant to (1) the  
9 identification, nature, and quantity of materials which have been  
10 or are generated, treated, stored, or disposed of at or  
11 transported to or from the Sites, and (2) the nature or extent of  
12 releases or threatened releases of a hazardous substance or pol-  
13 lutant or contaminant at or from the Sites.

14           5. EPA has determined that Respondents may have generated,  
15 stored, treated, transported, disposed of, or otherwise handled  
16 hazardous substances, including such hazardous substances which  
17 were transported to or from the Sites, or may have information  
18 relating to the same.

19           6. Based upon EPA's determinations as set forth in this Or-  
20 der, and pursuant to Section 104(e) of CERCLA, 42 U.S.C.  
21 § 9604(e) and Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), EPA,  
22 by telephone conferences on August 8, 9, 10, and 11, 1989, re-  
23 quested that Respondents furnish to EPA certain information,  
24 documents and samples relevant to: (1) the hazardous substances  
25 which they have or may have generated, stored, treated,  
26 transported, disposed of, or otherwise handled, including such  
27 hazardous substances which have or may have been transported to  
28



1 or from the Sites; and (2) the nature or extent of releases or  
2 threatened releases of a hazardous substance or pollutant or con-  
3 taminant at or from the Sites. In reply, Respondents have  
4 refused EPA access to the requested information, documents and  
5 samples.

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### III. CONCLUSIONS OF LAW

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7. The Sites are "facilities" as defined in Section 101(9)  
9 of CERCLA, 42 U.S.C. § 9601(9).

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8. Respondents are "persons" as defined in Section 101(21)  
11 of CERCLA, 42 U.S.C. § 9601(21).

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9. Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), provides  
13 in pertinent part:

14

(2) Any officer, employee, or representative [of the  
15 President] ... may require any person who has or may  
16 have information relevant to any of the following to  
furnish, upon reasonable notice, information or docu-  
17 ments relating to such matter [emphasis added]:

18

(A) The identification, nature, and quantity of  
18 materials which have been or are generated, treated,  
19 stored or disposed of at a vessel or facility or  
transported to a vessel or facility.

20

(B) The nature or extent of a release or  
20 threatened release of a hazardous substance or  
21 pollutant or contaminant at or from a vessel or  
facility.

22

(C) Information relating to the ability of a  
23 person to pay for or perform a cleanup.

24

In addition, upon reasonable notice, such person either  
24 (i) shall grant any such officer, employee, or repre-  
25 sentative access at all reasonable times to any vessel,  
26 facility, establishment, place, property, or location  
to inspect and copy all documents or records relating  
27 to such matters or (ii) shall copy and furnish to the  
officer, employee, or representative all such documents  
or records, at the option and expense of such person.

28



1 (3) ENTRY. - Any officer, employee, or representative  
2 [of the President] is authorized to enter at reasonable  
3 times ... (A) any ... facility, establishment, or any  
4 other place or property where any hazardous substance  
5 or pollutant or contaminant has been ... stored....

6 (4) INSPECTION AND SAMPLES. -(A) Any officer, employee,  
7 or representative [of the President] (1) is authorized  
8 to inspect and obtain samples from any ... location of  
9 any suspected hazardous substance or pollutant or  
10 contaminant.

11 10. Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), provides  
12 in pertinent part:

13 (a) Access entry

14 For purposes of developing or assisting in the  
15 development of any regulation or enforcing the  
16 provisions of this chapter, any person who generates,  
17 stores, treats, transports, disposes of, or otherwise  
18 handles or has handled hazardous wastes shall, upon  
19 request of any officer, employee or representative of  
20 the Environmental Protection Agency, duly designated by  
21 the Administrator ... furnish information relating to  
22 such wastes and permit such person at all reasonable  
23 times to have access to, and to copy all records  
24 relating to such wastes. For the purposes of  
25 developing or assisting in the development of any  
26 regulation or enforcing the provisions of this chapter,  
27 such officers, employees or representatives are  
28 authorized -

(1) to enter at reasonable times any establishment or  
other place where hazardous wastes are or have been  
generated, stored, treated, disposed of, or transported  
from;

(2) to inspect and obtain samples from any person of  
such wastes and samples of any containers or labeling  
such wastes.

29 11. Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), further  
30 provides in pertinent part:

31 (A) If consent is not granted regarding any request  
32 made by an officer, employee, or representative under  
33 paragraph (2), (3), or (4), the President may issue an  
34 order directing compliance with the request. The order  
35 may be issued after such notice and opportunity for



1 consultation as is reasonably appropriate under the  
2 circumstances.

3  
4 IV. DETERMINATION

5 12. Based on the above Findings of Fact and Conclusions of  
6 Law, EPA has determined that Respondents, by their failure to  
7 furnish to EPA the information, documents and samples requested  
8 by EPA, are in violation of Section 104(e) of CERCLA, 42 U.S.C.  
9 § 9604(e).

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11 V. COMPLIANCE ORDER

12 13. WHEREFORE, based on the Findings of Fact set forth  
13 above and pursuant to Section 104(e), 42 U.S.C. § 9604(e) of  
14 CERCLA, by authority delegated by the President to the Ad-  
15 ministrator of EPA and delegated by the Administrator to the un-  
16 dersigned, it is hereby ORDERED that Respondents:

17 A. Furnish to EPA, within 24 hours of receipt of this Order,  
18 all of the information, documents and samples requested;

19 B. Provide access to and copies of all analytical data  
20 and/or other information regarding the amount, nature, and type  
of hazardous substances contained within all drums and containers  
located at the Sites;

21 C. Provide access to and copies of all analytical data  
22 and/or other information regarding any releases or suspected  
releases from the Sites;

23 D. Provide access to all samples which were collected by  
24 Respondents or their agents at the Sites pursuant to Order 89-10;

25 E. Provide access to and copies of any reports generated by  
Respondents and/or their agents pursuant to Order 89-10;

26 F. Identify and describe all locations where samples and/or  
27 wastes have been transported from the Sites pursuant to Order  
89-10;

28 G. Identify, by name and address, all agents of Respondents,



1 under specific contract or otherwise, who may have information,  
2 documents or samples relating to the Sites pursuant to Order 89-  
10;

3 H. Provide any and all other information in the custody of  
4 Respondents and/or their agents relating to activities pursuant  
to Order 89-10.

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6 VI. EFFECTIVE DATE

7 14. This Order is effective upon receipt by Respondents.

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9 VII. PENALTIES FOR NON-COMPLIANCE

10 15. PLEASE TAKE NOTICE: Willful violation or failure or  
11 refusal to comply with this Order, or to provide any information,  
12 documents and samples as set forth in paragraphs six(6),  
13 twelve(12), and thirteen(13) of this Order, may subject you, un-  
14 der Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5), to civil  
15 penalties not to exceed \$25,000 for each day in which such viola-  
16 tion occurs or such failure to comply continues. Such violation  
17 or failure to so comply may also subject you to any other relief  
18 as the public interest and equities require, including injunctive  
19 relief.

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21 VIII. OPPORTUNITY TO CONFER

22 16. Within one (1) day after receipt of this Order, Respon-  
23 dents may request a conference to discuss the correctness of any  
24 factual determinations upon which the Order is based, the  
25 appropriateness of any action which you are hereby ordered to  
26 take, or any other relevant issue. If Respondents request a con-  
27 ference orally, Respondents must confirm the request in writing  
28 immediately. At any conference held pursuant to such request,



1 Respondents may appear in person and may be represented by an  
2 attorney or any other representative for the purpose of present-  
3 ing any objections, defenses or contentions which Respondents may  
4 have regarding this Order. In the event Respondents request a  
5 conference, such conference will not delay or alter the effective  
6 date of this Order. Any requests for a conference, as well as  
7 any questions that you may have regarding this Order, should be  
8 directed to:

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10 Martha Black  
11 Assistant Regional Counsel  
12 U.S. Environmental Protection Agency  
13 Region 9  
215 Fremont Street  
San Francisco, California 94105  
(415) 974-9586

14 or to:

15 Matthew B. Monsees  
16 On-Scene Coordinator  
17 U.S. Environmental Protection Agency  
18 Region 9  
215 Fremont Street  
San Francisco, California 94105  
(415) 974-8133

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20 Dated this 17 day of August, 1989.

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UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY

25

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By 

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Jeff Zelikson  
Director  
Hazardous Waste Management Division  
EPA Region 9

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